

list of identified lands is submitted by Kake Tribal Corporation pursuant to subsection (c).

"(e) MANAGEMENT OF WATERSHED.—The Secretary of Agriculture shall enter into a Memorandum of Agreement with the City of Kake, Alaska, to provide for management of the municipal watershed.

"(f) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Kake Tribal Corporation under this section is not available for export as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(g) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Kake Tribal Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

"(h) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.

The amendment (No. 3043) was agreed to.

The bill (S. 1159), as amended, was passed, as follows:

S. 1159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kake Tribal Corporation Land Exchange Act".

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601, et seq.), as amended, is further amended by adding at the end thereof:

"SEC. _____. KAKE TRIBAL CORPORATION LAND EXCHANGE.

"(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Kake Tribal Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal lands identified by Kake Tribal Corporation pursuant to subsection (c): *Provided*, That, the exchange of lands described in this section shall be on the basis of equal value.

"(b) DESCRIPTION.—The surface estate to be conveyed by Kake Tribal Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled attachment A, and are further described as follows:

"MUNICIPAL WATERSHED COPPER RIVER MERIDIAN

"T56S, R72E

"Section	Approximate Acres
13	82
23	118
24	635
25	640
26	346
34	9
35	349
36	248
Approximate total	2,427

"(c) DEADLINE.—Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Kake Tribal Corporation shall be entitled to identify lands in the Hamilton Bay and Saginaw Bay areas, as depicted on the maps dated September 1, 1997, and labeled Attachments B and C. Kake Tribal Corporation shall notify the Secretary of Agriculture in writing which lands Kake Tribal Corporation has identified.

"(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Kake Tribal Corporation pursuant to subsection (c).

"(e) MANAGEMENT OF WATERSHED.—The Secretary of Agriculture shall enter into a Memorandum of Agreement with the City of Kake, Alaska, to provide for management of the municipal watershed.

"(f) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Kake Tribal Corporation under this section is not available for export as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(g) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Kake Tribal Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

"(h) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land."

Mr. MURKOWSKI. Mr. President, today I offer substitute amendments to two similar bills passed out of the Energy and Natural Resources Committee earlier this year. The two bills are S. 1158, a bill to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corporation Public Interest Land Exchange, and S. 1159, a bill to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corporation Public Interest Land Exchange. Both of these bills direct the Secretary of Agriculture to conclude land exchanges which collectively will allow Kake and Huna to exchange land needed as municipal watershed in exchange for other Forest Service lands.

By passing these bills two objectives will be met. First, the two corporations will finally be able to fully recognize the economic benefits promised to them under ANCSA. Second, the watersheds that provide the respective communities of Hoonah, Alaska and Kake, Alaska will be protected in order to provide safe water for those communities.

The substitutes I offer today clarify several issues that were raised during the Committee hearings and mark-up. First, the substitutes again direct that

the Sealaska subsurface interest will mirror the Kake and Huna lands to be conveyed to the Secretary of Agriculture and the new lands to be conveyed to the corporations. Second the substitute clarifies that these exchange are to be done on an equal value basis. Both the Secretary of Agriculture and the corporations insisted this be the case. I believe this is critical, Mr. President, because both S. 1158 and S. 1159 provide that any timber derived from the newly acquired lands be processed in-state, a requirement that does not currently exist on the watershed lands the corporations are exchanging. Therefore, if this exchange was simply done on an acre-for-acre basis it is likely that the acreage the corporations are exchanging, without any timber export restrictions, would have a much higher value than what they get in return. It is for this reason that these exchanges were not done on an acre-for-acre basis. If it ends up that either party has to receive additional compensation, either additional land or cash to equalize the value, then it is my hope this is done in an expeditious way to allow the exchange to move forward within the times specified in the legislation.

I believe these two pieces of legislation are in the best interest of the native corporations, the Alaska communities where the watersheds are located, and the Federal government. It is my intention to try and pass these bills out of the Senate before the end of this session of Congress.

HYDROELECTRIC PROJECTS ACT OF 1997

The Senate proceed to consider the bill (S. 439) to provide for Alaska State jurisdiction over small hydroelectric projects, to address voluntary licensing of hydroelectric projects, to address voluntary licensing of hydroelectric projects on fresh waters in the State of Hawaii, to provide an exemption for portion of a hydroelectric project located in the State of New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in *italic*.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

[The Federal Power Act, as amended (16 U.S.C. 1791a et seq.) is further amended by adding the following at the end of section 23:

["(c) In the case of any project works in the State of Alaska—

["(1) that are not part of a project licensed under this Act prior to the date of enactment of this subsection;

["(2) for which a preliminary permit or a license application has not been accepted for filing by the Commission prior to the date of enactment of this subsection (unless such application is withdrawn at the election of the applicant);

“(3) that have a power production capacity of 5,000 kilowatts or less;

“(4) that are located entirely within the boundaries of the State of Alaska; and

“(5) that are not located in whole or in part on any Indian reservation, unit of the National Park System, component of the Wild and Scenic Rivers System or segment of a river designated for study for potential addition to such system,

the State of Alaska shall have the exclusive authority to authorize such project works under State law, in lieu of licensing by the Commission under the otherwise applicable provisions of this part, effective upon the date on which the Governor of the State of Alaska notifies the Secretary of Energy that the State has in place a process for regulating such projects which gives appropriate consideration to the improvement or development of the State's waterways for the use or benefit of intrastate, interstate, or foreign commerce, for the improvement and use of waterpower development, for the adequate protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds), and for other beneficial public uses, including irrigation, flood control, water supply, recreational and other purposes, and Indian rights, if applicable.

“(d) In the case of a project that would be subject to authorization by the State under subsection (c) but for the fact that the project has been licensed by the Commission prior to the enactment of subsection (c), the licensee of such project may in its discretion elect to make the project subject to the authorizing authority of the State.

“(e) With respect to projects located in whole or in part on Federal lands, State authorizations for project works pursuant to subsection (c) of this section shall be subject to the approval of the Secretary having jurisdiction with respect to such lands and subject to such terms and conditions as the Secretary may prescribe.”

“(f) Nothing in subsection (c) shall preempt the application of Federal environment, natural, or cultural resources protection laws according to their terms.”

SECTION 1. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

Part I of the Federal Power Act (16 U.S.C. 792 et seq.) is amended by adding at the end the following:

“SEC. 32. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

“(a) DISCONTINUANCE OF REGULATION BY THE COMMISSION.—Notwithstanding sections 4(e) and 23(b), the Commission shall discontinue exercising licensing and regulatory authority under this Part over qualifying project works in the State of Alaska, effective on the date on which the Commission certifies that the State of Alaska has in place a regulatory program for water-power development that—

“(1) protects the public interest, the purposes listed in paragraph (2), and the environment to the same extent provided by licensing and regulation by the Commission under this Part and other applicable Federal laws, including the Endangered Species Act (16 U.S.C. 1531 et seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

“(2) gives equal consideration to the purposes of—

“(A) energy conservation;

“(B) the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat);

“(C) the protection of recreational opportunities,

“(D) the preservation of other aspects of environmental quality,

“(E) the interests of Alaska Natives, and

“(F) other beneficial public uses, including irrigation, flood control, water supply, and navigation; and

“(3) requires, as a condition of a license for any project works—

“(A) the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of the Department in which the Coast Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate;

“(B) the operation of any navigation facilities which may be constructed as part of any project to be controlled at all times by such reasonable rules and regulations as may be made by the Secretary of the Army; and

“(C) conditions for the protection, mitigation, and enhancement of fish and wildlife based on recommendations received pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

“(b) DEFINITION OF ‘QUALIFYING PROJECT WORKS’.—For purposes of this section, the term ‘qualifying project works’ means project works—

“(1) that are not part of a project licensed under this Part or exempted from licensing under this Part or section 405 of the Public Utility Regulatory Policies Act of 1978 prior to the date of enactment of this section;

“(2) for which a preliminary permit, a license application, or an application for an exemption from licensing has not been accepted for filing by the Commission prior to the date of enactment of subsection (c) (unless such application is withdrawn at the election of the applicant);

“(3) that are part of a project that has a power production capacity of 5,000 kilowatts or less;

“(4) that are located entirely within the boundaries of the State of Alaska; and

“(5) that are not located in whole or in part on any Indian reservation, a conservation system unit (as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4))), or segment of a river designated for study for addition to the Wild and Scenic Rivers System.

“(c) ELECTION OF STATE LICENSING.—In the case of nonqualifying project works that would be a qualifying project works but for the fact that the project has been licensed (or exempted from licensing) by the Commission prior to the enactment of this section, the licensee of such project may in its discretion elect to make the project subject to licensing and regulation by the State of Alaska under this section.

“(d) PROJECT WORKS ON FEDERAL LANDS.—With respect to projects located in whole or in part on a reservation, a conservation system unit, or the public lands, a State license or exemption from licensing shall be subject to—

“(1) the approval of the Secretary having jurisdiction over such lands; and

“(2) such conditions as the Secretary may prescribe.

“(e) CONSULTATION WITH AFFECTED AGENCIES.—The Commission shall consult with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce before certifying the State of Alaska's regulatory program.

“(f) APPLICATION OF FEDERAL LAWS.—Nothing in this section shall preempt the application of Federal environmental, natural resources, or cultural resources protection laws according to their terms.

“(g) OVERSIGHT BY THE COMMISSION.—The State of Alaska shall notify the Commission not later than 30 days after making any significant modification to its regulatory program. The Commission shall periodically review the State's program to ensure compliance with the provisions of this section.

“(h) RESUMPTION OF COMMISSION AUTHORITY.—Notwithstanding subsection (a), the Commission shall reassert its licensing and regulatory authority under this Part if the Commis-

sion finds that the State of Alaska has not complied with one or more of the requirements of this section.

“(i) DETERMINATION BY THE COMMISSION.—

“(1) Upon application by the Governor of the State of Alaska, the Commission shall within 30 days commence a review of the State of Alaska's regulatory program for water-power development to determine whether it complies with the requirements of subsection (a).

“(2) The Commission's review required by paragraph (1) shall be completed within one year of initiation, and the Commission shall within 30 days thereafter issue a final order determining whether or not the State of Alaska's regulatory program for water-power development complies with the requirements of subsection (a).

“(3) If the Commission fails to issue a final order in accordance with paragraph (2), the State of Alaska's regulatory program for water-power development shall be deemed to be in compliance with subsection (a).”

SEC. 2. VOLUNTARY LICENSING OF HYDROELECTRIC PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.

Section 4(e) of the Federal Power Act is amended by striking “several States, or upon” and inserting “several States (except fresh waters in the State of Hawaii, unless a license would be required by section 23 of the Act), or upon”.

SEC. 3. LIMITED EXEMPTION FOR TRANSMISSION FACILITIES ASSOCIATED WITH THE EL VADO HYDROELECTRIC PROJECT.

(a) Part I of the Federal Power Act, and the jurisdiction of the Federal Energy Regulatory Commission under such part I, shall not apply to the transmission line facilities associated with the El Vado Hydroelectric project (FERC project No. 5226) which are described in subsection (b).

(b) The facilities to which the exemption under subsection (a) applies are those transmission facilities located near the Rio Chama, a tributary of the Rio Grande, in Rio Arriba County, New Mexico, referred to as the El Vado transmission line, a three phase 12-mile long 69 kV power line installed within a 50-foot wide right-of-way in Rio Arriba County, New Mexico, originating at the El Vado project's switchyard and connecting to the Spills 69 kV switching station operated by the Northern Arriba Electric Cooperative Inc.

SEC. 4. FERC EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR HYDROELECTRIC PROJECTS.

The second sentence in section 13 of the Federal Power Act (16 U.S.C. 806) is amended to read as follows: “The period for the commencement of construction may be extended by the Commission for not longer than ten years from the issuance date of the license when not incompatible with the public interest, and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the Commission when not incompatible with the public interest.”

SEC. 5. TECHNICAL CORRECTION.

Section 6 of the Federal Power Act (16 U.S.C. 799) is amended by adding at the end the following:

“Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this Act, and may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days' public notice.

The amendments were agreed to.

The bill (S. 439), as amended, was passed.